TESTIMONY OF DC INSPECTOR GENERAL CHARLES C. MADDOX, ESQ.
BEFORE THE SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS,
THE HOUSE COMMITTEE ON GOVERNMENT REFORM
"Medicaid Claims: Who's Watching the Money?"
June 13, 2002

It is a pleasure to testify before this Committee today regarding the oversight role of the D.C. Office of the Inspector General (OIG) in deterring waste, fraud, and abuse of the Medicaid program. Joining me today is Sidney Rocke, Director of our Medicaid Fraud Control Unit (MFCU).

Because we conduct our oversight through a combination of investigations, audits, and inspections, the OIG has a unique perspective about the challenges that states must overcome in order to ensure that the Medicaid program does not lose funds needlessly. In addition, our experience also has taught us important lessons about ways that oversight entities can be most helpful to administrators and to the legislature. I am pleased to say that the DC OIG has enjoyed an extremely constructive partnership with the local executive and legislative branches of the D.C. government to achieve a measure of progress that I believe establishes the nation's capital as a leader in finding new ways to address waste, fraud, and abuse in this most important program.

Consistent with several key findings published in the General Accounting Office's recent report on Medicaid financial management and the need for better oversight of state Medicaid claims, we have used our audits, inspections and investigations divisions to accomplish four objectives: 1) developing a comprehensive oversight strategy; 2) identifying problems and performing risk assessments; 3) taking action to mitigate risks; and 4) monitoring the effectiveness of those actions.

1. A Comprehensive Strategy

We have developed a comprehensive oversight strategy by deploying the resources of three distinct divisions. For instance, in 1999 our audit division found that the DC Public School System was not in compliance with federal or District regulations with respect to the way Medicaid records are maintained. Because this problem continues to interrupt the flow of reimbursement of Medicaid payments to the District, we will conduct another audit in FY 2002, focusing on chronic problem areas, such as the transportation of special education students. Another example of our team approach is our three-month inspection of the District's Surveillance and Utilization Review Unit, which is the part of the Department of Health that is responsible for monitoring the Medicaid claims processing system for indications of fraud and abuse. We made several recommendations for improvement of this critical link between governmental units that process bills and those that prosecute false claims.

Although our auditors and inspectors review issues that relate to the effectiveness and efficiency of Medicaid program management, our Medicaid Fraud Control Unit (MFCU) carries the primary responsibility of working with the District's agency, the Medical Assistance Administration (MAA), which is responsible for administering the program. The MFCU's mission is to investigate and prosecute financial fraud committed against the Medicaid Program by large healthcare providers as well as solo practitioners. I am proud to say that, after a 17-year hiatus in the District of Columbia, D.C. Mayor Anthony Williams and former U.S. Attorney Wilma Lewis joined me to create the MFCU. With strong legislative support from the City Council, we have been able to seek enforcement using criminal, civil and administrative remedies.

The MFCU receives a variety of leads, tips, and intelligence regarding possible fraud in the Medicaid program. We build on this information through extensive use of data mining techniques. The MFCU can manipulate extensive claims data to look for aberrational patterns that may indicate fraud. For example, a small pharmacy that is responsible for filling a highly disproportionate amount of narcotics prescriptions may warrant greater scrutiny. Of course this

capability requires an investment in manpower, training and technology—but we believe the effort is worthwhile in the long run.

2. Identifying Problems and Assessing Risks

In working individual cases, our MFCU remains sensitive to the need for systemic reform. In fact, the two are often intertwined. For example, the MFCU recently investigated allegations of fraud in the Medicaid taxi voucher program. We discovered that that the program rules were incomplete, inadequate, and lacked internal controls. This can greatly undermine any attempt to prosecute for intentional fraud, since money is paid in a seemingly improper way, but a prosecutor may have difficulty showing a deceptive act that violates a particular government expectation. However, difficult terrain for a prosecution can often be fertile ground for an audit. With this in mind, the MFCU referred this matter to OIG's audit division for a comprehensive audit of the program.

3. Taking Action to Mitigate Risks

In all of our reports, we require that affected agencies comment on our recommendations and begin implementation of corrective action within a designated timeframe. Within the last year, we have begun a process for tracking compliance on priority recommendations, and we will direct our findings to the Mayor's Office for continued monitoring. Moreover, we are providing these services based, in part, on feedback we solicit from District leaders. As a result of this communication, we are better able to use our limited resources to address priority issues.

Both locally and nationally, experience has shown that fraud cases are lengthy and give the target ample opportunity to hide or spend all of the stolen funds. Although the government may eventually obtain a restitution order or judgment, this is of little practical value if no assets can be located. Payment suspensions can be a vital safeguard in preventing this outcome. Our MFCU strives to keep the Medicaid program informed of the progress of cases. Whenever appropriate, we provide information about overpayments we have calculated and evidence of fraud against the program. As a result, when appropriate, MAA can suspend payments to the

provider for the duration of the case. In this way, we mitigate damages by preventing further losses during the pendency of the case. Naturally, we are careful to avoid undermining the fraud investigation in any way.

4. Monitoring Effectiveness of those Actions/Encouraging Top-Level Management Commitment.

Experience has taught us that agencies make optimal progress when top-level managers are committed to preventing waste, fraud and abuse of the Medicaid program. We have taken several steps to ensure "buy-in" at every stage of our investigations, audits and inspections. Our most successful effort has been to secure a Mayor's Order requiring agency heads to respond within a certain timeframe to our report recommendations and to any OIG referrals sent to them regarding non-criminal allegations. As a result, many agencies are much more responsive in terms of timeliness and substance. In addition, our auditors and inspectors engage top-level management from the beginning to the end of each of our reviews. Furthermore, the MFCU has provided training to MAA on the basics of health fraud prosecution and audit techniques. We share our expertise and, in so doing, cultivate improved working relationships among agencies.

Provider Relations

Although the GAO report did not recommend specific actions regarding provider relations, I would like to comment on the importance of conducting regular outreach to the provider community. In the MFCU, our outreach is premised on the belief that the vast majority of providers are honest and want to see a Medicaid program free of fraud and abuse. We meet with provider groups and trade associations to explain the government's concerns and to provide some basic advice on avoiding the problems.

We also encourage buy-in by underscoring common interests in the fight against fraud. For example, many Medicaid programs nationwide are being hard hit by false claims for OxyContin. This issue encapsulates many of the problems facing government health care. Patients will often pretend to be in pain to obtain a prescription for this powerful narcotic. They may alter or forge

any prescription they get and then sell the narcotics on the street. Sometimes they steal prescription pads off of doctors' desks. Sometimes, they conspire with doctors who dispense the drugs illegally. In the latter case, the physicians may receive payment from Medicaid for medical exams that never occurred or were unnecessary.

The vast majority of physicians are outraged at this abuse, but are also determined to preserve their ability to prescribe OxyContin when medically necessary**.** We wrote a letter to the Medical Society of DC, stressing our common ground on this issue. Our letter was reprinted in the Society's newsletter and distributed to doctors throughout the District. In this way, we believe we have addressed a problem in a proactive fashion before it becomes an epidemic.

Conclusion

Taken together, our strategic allocation of resources to assess risks, monitor corrective actions, and engage top-level management has brought much needed focus to our oversight efforts. In fact, most of these efforts were initiated only since my tenure as Inspector General in 1999. With the continued cooperation of the city's leaders and the diligent work of the OIG, I am extremely optimistic that we will realize even more cost-savings, restitution payments, and prosecutions that will improve the fiscal integrity and financial management of the District's Medicaid program. We would be pleased to respond to your questions at this time.